

Notice of Allowability	Application No.	Applicant(s)	
	10/712,514	LIBERMAN ET AL.	
	Examiner	Art Unit	
	Alton N. Pryor	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 1-4, 6-8, 10, 12 (claims renumbered 1-9 respectively).
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>3/3/04</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Ren on 8/3/05.

The application has been amended as follows:

- a) In claims 1, 6, 10, and 12 last line after "infection" insert -- ; wherein said fungal infection is athlete's foot ---.
- b) In claim 6 line 3 after "area" insert --- of said patient ---.
- c) In claim 12 line 4 after "area" insert --- of said patient ---.
- d) In claim 12 line 4 delete "fungus" and insert --- fungal ---.
- e) Cancel claims 5,9,11,13.

The following is an examiner's statement of reasons for allowance: The prior art does not teach or suggest the instant method of treating athlete's foot comprising orally administering acyclovir, valacyclovir, famciclovir, penciclovir, or ganciclovir to a subject. USPN 6585967 discloses a method of topically administering valacyclovir and famciclovir to a subject to treat athlete's foot. USPN '967 teaches the topical administration rather than the oral administration of valacyclovir and famciclovir to treat athlete's foot as instantly claimed. USPN's 6951847, 6224887, 6436926, and 5519059 teach that the same fungus that causes both athlete's foot and jock itch. The present invention differs from the above in the route of administration, namely, oral (present

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invention) versus topical (prior art). The prior art does not teach or suggest the oral administration of the instant compounds to treat athlete's foot. USPN '967 is the only patent cited above which discloses a method of administering valacyclovir and famciclovir to treat athlete's foot. However, USPN '967 does not suggest administering the compounds orally even slightly. USPN's '847, '887, '926 and '059 teach method of administering actives orally to treat athlete's foot; however, neither of those patents, even slightly, mentions the use of actives recited in the instant claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

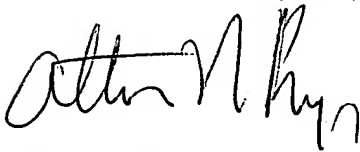
Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Alton Pryor', with a stylized flourish at the end.

Alton Pryor
Primary Examiner
AU 1616